



GOV. MSG. NO. 1120

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 18, 2013

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

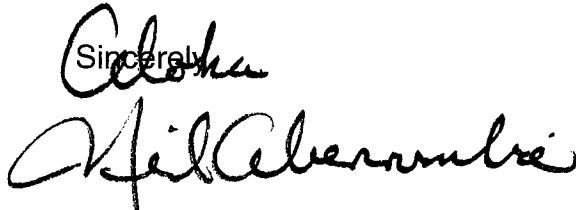
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 18, 2013, the following bill was signed into law:

HB651 HD1

RELATING TO ELECTRONIC PRESCRIPTIONS
ACT 020 (13)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor
on APR 18 2013

ORIGINAL ACT 020

HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

H.B. NO. 651
H.D. 1

A BILL FOR AN ACT

RELATING TO ELECTRONIC PRESCRIPTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. On March 31, 2010, the Drug Enforcement
2 Administration published in the Federal Register its rule
3 "Electronic Prescriptions for Controlled Substances", which
4 became effective on June 1, 2010, and which revises the Drug
5 Enforcement Administration's regulations to provide
6 practitioners with the option of writing prescriptions for
7 controlled substances electronically. The regulations also
8 permit pharmacies to receive, dispense, and archive these
9 electronic prescriptions for controlled substances. These new
10 regulations do not mandate that practitioners prescribe
11 controlled substances using only electronic prescriptions nor do
12 these new regulations require pharmacies to accept only
13 electronic prescriptions for controlled substances for
14 dispensing. The use of electronic prescriptions for controlled
15 substances is voluntary on the part of the practitioners and
16 pharmacies. Electronic prescriptions for controlled substances
17 may be conveyed electronically; provided that the electronic



1 prescription and the pharmacy application meet the Drug
2 Enforcement Administration's and state's requirements.

3 Practitioners are still able to write and must manually
4 sign prescriptions for controlled substances in Schedule II,
5 III, IV, and V and may convey valid written prescriptions for
6 controlled substances via facsimile to pharmacies for Schedule
7 III, IV, and V. Orally-ordered prescriptions remain valid for
8 Schedule III, IV, and V and under emergency provisions for
9 Schedule II prescriptions.

10 Allowing practitioners to electronically prescribe
11 controlled substances and to convey the prescription directly to
12 the pharmacy of the patient's choice, will provide practitioners
13 with a safer, more secure, and timely means to prescribe
14 controlled substances in addition to the conventional means of
15 prescribing controlled substances.

16 The purpose of this Act is to amend the Uniform Controlled
17 Substances Act in chapter 329, Hawaii Revised Statutes, by:

- 18 (1) Adding definitions to section 329-1, Hawaii Revised
19 Statutes, to be consistent with federal law;
20 (2) Clarifying the conditions for the transmittal of
21 prescriptions electronically; and



(3) Specifying prohibited acts related to electronic prescriptions.

SECTION 2. Section 329-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Electronic prescription" means a prescription that is generated on an electronic prescription application and transmitted as an electronic data file that complies with all applicable requirements of Title 21 Code of Federal Regulations Part 1311 and any additional rules adopted by the department.

"Electronic prescription application" means electronic prescription software either as a stand-alone application or as a module in an electronic health record application.

"Electronic signature" means a method of signing an electronic message that identifies a particular person as the source of the message and indicates the person's approval of the information contained in the message."

SECTION 3. Section 329-38, Hawaii Revised Statutes, is amended to read as follows:

"§329-38 Prescriptions. (a) No controlled substance in schedule II may be dispensed without a written prescription of a practitioner, except:



1 (1) In the case of an emergency situation, a pharmacist
2 may dispense a controlled substance listed in schedule
3 II upon receiving oral authorization from a
4 prescribing practitioner; provided that:

5 (A) The quantity prescribed and dispensed is limited
6 to the amount adequate to treat the patient
7 during the emergency period (dispensing beyond
8 the emergency period must be pursuant to a
9 written prescription signed by the prescribing
10 practitioner);

11 (B) If the prescribing practitioner is not known to
12 the pharmacist, the pharmacist shall make a
13 reasonable effort to determine that the oral
14 authorization came from a registered
15 practitioner, which may include a callback to the
16 prescribing practitioner using the phone number
17 in the telephone directory or other good faith
18 efforts to identify the prescriber; and

19 (C) Within seven days after authorizing an emergency
20 oral prescription, the prescribing practitioner
21 shall cause a written prescription for the
22 emergency quantity prescribed to be delivered to



1 the dispensing pharmacist. In addition to
2 conforming to the requirements of this
3 subsection, the prescription shall have written
4 on its face "Authorization for Emergency
5 Dispensing". The written prescription may be
6 delivered to the pharmacist in person or by mail,
7 and if by mail, the prescription shall be
8 postmarked within the seven-day period. Upon
9 receipt, the dispensing pharmacist shall attach
10 this prescription to the oral emergency
11 prescription, which had earlier been reduced to
12 writing. The pharmacist shall notify the
13 administrator if the prescribing practitioner
14 fails to deliver a written prescription to the
15 pharmacy within the allotted time. Failure of
16 the pharmacist to do so shall void the authority
17 conferred by this paragraph to dispense without a
18 written prescription of a prescribing individual
19 practitioner. Any practitioner who fails to
20 deliver a written prescription within the seven-
21 day period shall be in violation of section 329-
22 41(a)(1); [ex]



- (2) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in schedule II shall affix to the package a label showing:
- (A) The date of dispensing;
 - (B) The name, strength, and quantity of the drug dispensed;
 - (C) The dispensing practitioner's name and address;
 - (D) The name of the patient;
 - (E) The "use by" date for the drug, which shall be:
 - (i) The expiration date on the [{}manufacturer's{}] or principal labeler's container; or
 - (ii) One year from the date the drug is dispensed, whichever is earlier; and
 - (F) Directions for use, and cautionary statements, if any, contained in the prescription or as required by law.

A complete and accurate record of all schedule II controlled substances ordered, administered, prescribed, and dispensed shall be maintained for five years. Prescriptions and records of dispensing shall



1 otherwise be retained in conformance with the
2 requirements of section 329-36. No prescription for a
3 controlled substance in schedule II may be
4 refilled[-]; or

5 (3) In the case of an electronic prescription, a
6 pharmacist may dispense a controlled substance listed
7 in schedule II upon receiving an electronic
8 prescription.

9 (b) A schedule II controlled substance prescription shall:

10 (1) Be filled within seven days following the date the
11 prescription was issued to the patient; and

12 (2) Be supplied to a patient only if the prescription has
13 been filled and held by the pharmacy for not more than
14 seven days.

15 (c) The transfer of original prescription information for a
16 controlled substance listed in schedule III, IV, or V for the
17 purpose of dispensing is permissible between pharmacies on a one
18 time basis only. However, pharmacies electronically sharing a
19 real-time, online database may transfer up to the maximum
20 refills permitted by law and the prescriber's authorization.
21 Transfers are subject to the following requirements:



(1) The transfer shall be communicated directly between two licensed pharmacists, and the transferring pharmacist shall:

(A) Write or otherwise place the word "VOID" on the face of the invalidated prescription;

(B) Record on the reverse of the invalidated prescription the name, address, and [DEA] Drug Enforcement Administration registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information; and

(C) Record the date of the transfer and the name of the pharmacist transferring the information;

(2) The pharmacist receiving the transferred prescription information shall reduce to writing the following:

(A) Write or otherwise place the word "transfer" on the face of the transferred prescription;

(B) Record all information required to be on a prescription, including:

(i) The date of issuance of original prescription;



- 1 (ii) The original number of refills authorized on
2 original prescription;
- 3 (iii) The date of original dispensing;
- 4 (iv) The number of valid refills remaining and
5 dates and locations of previous refills;
- 6 (v) The pharmacy's name, address, [DEA] Drug
7 Enforcement Administration registration
8 number, and original prescription number
9 from which the prescription information was
10 transferred;
- 11 (vi) The name of the transferor pharmacist; and
- 12 (vii) The pharmacy's name, address, and Drug
13 Enforcement Administration registration
14 number, along with the prescription number
15 from which the prescription was originally
16 filled;
- 17 (3) Both the original and transferred prescription shall
18 be maintained for a period of five years from the date
19 of last refill; and
- 20 (4) Any pharmacy electronically accessing a prescription
21 record shall satisfy all information requirements of a
22 manual mode prescription transferal.



1 Failure to comply with this subsection shall void the
2 authority of the pharmacy to transfer prescriptions or receive a
3 transferred prescription to or from another pharmacy.

4 (d) A pharmacy and an authorized central fill pharmacy may
5 share information for initial and refill prescriptions of
6 schedule III, IV, or V controlled substances. The following
7 requirements shall apply:

8 (1) A pharmacy may electronically transmit, including by
9 facsimile, prescriptions for controlled substances
10 listed in schedule III, IV, or V to a central fill
11 pharmacy. The pharmacy transmitting the prescription
12 information shall:

13 (A) Ensure that all information required to be on a
14 prescription pursuant to subsection (g) is
15 transmitted to the central fill pharmacy either
16 on the face of the prescription or
17 electronically; and

18 (B) Keep a record of receipt of the filled
19 prescription, including the date of receipt, the
20 method of delivery (private, common, or contract
21 carrier) and the identity of the pharmacy
22 employee accepting delivery; and



(2) The central fill pharmacy receiving the transmitted prescription shall:

(A) Keep for five years a copy of a prescription received by facsimile or an electronic record of all the information transmitted by the pharmacy, including the name, address, and ~~[DEA]~~ Drug Enforcement Administration registration number of the pharmacy transmitting the prescription;

(B) Keep a record of the date of receipt of the transmitted prescription, the name of the licensed pharmacists filling the prescription, and the dates the prescription was filled or is refilled; and

(C) Keep a record of the date the filled prescription was shipped to the pharmacy.

(e) No controlled substance in schedule III, IV, or V may be dispensed without a written, facsimile of a written, ~~[or]~~ oral prescription of a practitioner, or receipt of an electronic prescription, except when a controlled substance is dispensed directly by a practitioner, other than a pharmacist, to an ultimate user. The practitioner, in dispensing a controlled



1 substance in schedule III, IV, or V, shall affix to the package
2 a label showing:

- 3 (1) The date of dispensing;
- 4 (2) The name, strength, and quantity issued of the drug;
- 5 (3) The dispensing practitioner's name and business
6 address;
- 7 (4) The name of the patient;
- 8 (5) The "use by" date for the drug, which shall be:
 - 9 (A) The expiration date on the manufacturer's or
10 principal labeler's container; or
 - 11 (B) One year from the date the drug is dispensed,
12 whichever is earlier;
- 13 (6) Directions for use; and
- 14 (7) Cautionary statements, if any, contained in the
15 prescription or as required by law.

16 A complete and accurate record of all schedule III, IV, and V
17 controlled substances administered, prescribed, and dispensed
18 shall be maintained for five years. Prescriptions and records
19 of dispensing shall be retained in conformance with the
20 requirements of section 329-36 unless otherwise provided by law.
21 Prescriptions may not be filled or refilled more than three
22 months after the date of the prescription or be refilled more



1 than two times after the date of the prescription, unless the
2 prescription is renewed by the practitioner.

3 (f) The effectiveness of a prescription for the purposes
4 of this section shall be determined as follows:

5 (1) A prescription for a controlled substance shall be
6 issued for a legitimate medical purpose by an
7 individual practitioner acting in the usual course of
8 the practitioner's professional practice. The
9 responsibility for the proper prescribing and
10 dispensing of controlled substances shall be upon the
11 prescribing practitioner, but a corresponding
12 responsibility shall rest with the pharmacist who
13 fills the prescription. An order purporting to be a
14 prescription issued not in the usual course of
15 professional treatment or for legitimate and
16 authorized research shall not be deemed a prescription
17 within the meaning and intent of this section, and the
18 person who knowingly fills such a purported
19 prescription, as well as the person who issues the
20 prescription, shall be subject to the penalties
21 provided for violations of this chapter;



- 1 (2) A prescription may not be issued to allow an
2 individual practitioner to obtain controlled
3 substances for supplying the individual practitioner
4 for the purpose of general dispensing to patients;
- 5 (3) A prescription may not be issued for the dispensing of
6 narcotic drugs listed in any schedule for the purpose
7 of "detoxification treatment" or "maintenance
8 treatment" except as follows:
- 9 (A) The administering or dispensing directly (but not
10 prescribing) of narcotic drugs listed in any
11 schedule to a narcotic drug-dependent person for
12 "detoxification treatment" or "maintenance
13 treatment" shall be deemed to be "in the course
14 of a practitioner's professional practice or
15 research" so long as the practitioner is
16 registered separately with the department and the
17 federal Drug Enforcement Agency as required by
18 section 329-32(e) and complies with Title 21 Code
19 of Federal Regulations section 823(g) and any
20 other federal or state regulatory standards
21 relating to treatment qualification, security,
22 records, and unsupervised use of drugs; and



(B) Nothing in this section shall prohibit a physician or authorized hospital staff from administering or dispensing, but not prescribing, narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction;

(4) An individual practitioner shall not prescribe or dispense a substance included in schedule II, III, IV, or V for that individual practitioner's personal use, except in a medical emergency; and

(5) A pharmacist shall not dispense a substance included in schedule II, III, IV, or V for the pharmacist's personal use.

(g) Prescriptions for controlled substances shall be issued only as follows:

(1) All prescriptions for controlled substances shall originate from within the State and be dated as of, and signed on, the day when the prescriptions were issued and shall contain:

(A) The first and last name and address of the patient; and



1 (B) The drug name, strength, dosage form, quantity
2 prescribed, and directions for use. Where a
3 prescription is for gamma hydroxybutyric acid,
4 methadone, or buprenorphine, the practitioner
5 shall record as part of the directions for use,
6 the medical need of the patient for the
7 prescription.

8 ~~[The]~~ Except for electronic prescriptions, controlled
9 substance prescriptions shall be no larger than eight
10 and one-half inches by eleven inches and no smaller
11 than three inches by four inches. A practitioner may
12 sign a prescription in the same manner as the
13 practitioner would sign a check or legal document
14 (e.g., J.H. Smith or John H. Smith) and shall use both
15 words and figures (e.g., alphabetically and
16 numerically as indications of quantity, such as five
17 (5)), to indicate the amount of controlled substance
18 to be dispensed. Where an oral order or electronic
19 prescription is not permitted, prescriptions shall be
20 written with ink or indelible pencil or typed, shall
21 be manually signed by the practitioner, and shall
22 include the name, address, telephone number, and



1 registration number of the practitioner. The
2 prescriptions may be prepared by a secretary or agent
3 for the signature of the practitioner, but the
4 prescribing practitioner shall be responsible in case
5 the prescription does not conform in all essential
6 respects to this chapter and any rules adopted
7 pursuant to this chapter. In receiving an oral
8 prescription from a practitioner, a pharmacist shall
9 promptly reduce the oral prescription to writing,
10 which shall include the following information: the
11 drug name, strength, dosage form, quantity prescribed
12 in figures only, and directions for use; the date the
13 oral prescription was received; the full name, [DEA]
14 Drug Enforcement Administration registration number,
15 and oral code number of the practitioner; and the name
16 and address of the person for whom the controlled
17 substance was prescribed or the name of the owner of
18 the animal for which the controlled substance was
19 prescribed.

20 A corresponding liability shall rest upon a
21 pharmacist who fills a prescription not prepared in
22 the form prescribed by this section. A pharmacist may



1 add a patient's missing address or change a patient's
2 address on all controlled substance prescriptions
3 after verifying the patient's identification and
4 noting the identification number on the back of the
5 prescription[-] document on file. The pharmacist
6 shall not make changes to the patient's name, the
7 controlled substance being prescribed, the quantity of
8 the prescription, the practitioner's [DEA] Drug
9 Enforcement Administration number, the practitioner's
10 name, the practitioner's electronic signature, or the
11 practitioner's signature;

12 (2) An intern, resident, or foreign-trained physician, or
13 a physician on the staff of a Department of Veterans
14 Affairs facility or other facility serving veterans,
15 exempted from registration under this chapter, shall
16 include on all prescriptions issued by the physician:

17 (A) The registration number of the hospital or other
18 institution; and

19 (B) The special internal code number assigned to the
20 physician by the hospital or other institution in
21 lieu of the registration number of the
22 practitioner required by this section.



1 The hospital or other institution shall forward a copy
2 of this special internal code number list to the
3 department as often as necessary to update the
4 department with any additions or deletions. Failure
5 to comply with this paragraph shall result in the
6 suspension of that facility's privilege to fill
7 controlled substance prescriptions at pharmacies
8 outside of the hospital or other institution. Each
9 written prescription shall have the name of the
10 physician stamped, typed, or hand-printed on it, as
11 well as the signature of the physician;

12 (3) An official exempted from registration shall include
13 on all prescriptions issued by the official:

14 (A) The official's branch of service or agency (e.g.,
15 "U.S. Army" or "Public Health Service"); and

16 (B) The official's service identification number, in
17 lieu of the registration number of the
18 practitioner required by this section. The
19 service identification number for a Public Health
20 Service employee shall be the employee's social
21 security or other government issued
22 identification number.



1 Each prescription shall have the name of the officer
2 stamped, typed, or handprinted on it, as well as the
3 signature of the officer; and

- 4 (4) A physician assistant registered to prescribe
5 controlled substances under the authorization of a
6 supervising physician shall include on all controlled
7 substance prescriptions issued:

8 (A) The ~~[DEA]~~ Drug Enforcement Administration
9 registration number of the supervising physician;
10 and

11 (B) The ~~[DEA]~~ Drug Enforcement Administration
12 registration number of the physician assistant.

13 Each written controlled substance prescription issued
14 shall include the printed, stamped, typed, or hand-
15 printed name, address, and phone number of both the
16 supervising physician and physician assistant, and
17 shall be signed by the physician assistant. The
18 medical record of each written controlled substance
19 prescription issued by a physician assistant shall be
20 reviewed and initialed by the physician assistant's
21 supervising physician within seven working days.



1 (h) A prescription for controlled substances may only be
2 filled by a pharmacist acting in the usual course of the
3 pharmacist's professional practice and either registered
4 individually or employed in a registered pharmacy, central fill
5 pharmacy, or registered institutional practitioner. A central
6 fill pharmacy authorized to fill prescriptions on behalf of a
7 pharmacy shall have a contractual relationship with the pharmacy
8 that provides for this activity or shall share a common owner
9 with the pharmacy. A central fill pharmacy shall not prepare
10 prescriptions for any controlled substance listed in schedule
11 II.

12 (i) Partial filling of controlled substance prescriptions
13 shall be determined as follows:

14 (1) The partial filling of a prescription for a controlled
15 substance listed in schedule II is permissible if the
16 pharmacist is unable to supply the full quantity
17 called for in a written, electronic prescription, or
18 emergency oral prescription and the pharmacist makes a
19 notation of the quantity supplied on the face of the
20 written prescription (or written record of the
21 electronic prescription or emergency oral
22 prescription). The remaining portion of the



1 prescription may be filled within seventy-two hours of
2 the first partial filling; provided that if the
3 remaining portion is not or cannot be filled within
4 the seventy-two-hour period, the pharmacist shall
5 notify the prescribing individual practitioner. No
6 further quantity shall be supplied beyond seventy-two
7 hours without a new prescription;

8 (2) The partial filling of a prescription for a controlled
9 substance listed in schedule III, IV, or V is
10 permissible; provided that:

11 (A) Each partial filling is recorded in the same
12 manner as a refilling;

13 (B) The total quantity dispensed in all partial
14 fillings does not exceed the total quantity
15 prescribed;

16 (C) No dispensing occurs more than three months after
17 the date on which the prescription was issued;
18 and

19 (D) The prescription is refilled no more than two
20 times after the initial date of the prescription,
21 unless the prescription is renewed by the
22 practitioner; and



1 (3) A prescription for a schedule II controlled substance
2 ~~[written]~~ issued for a patient in a long-term care
3 facility or for a patient with a medical diagnosis
4 documenting a terminal illness may be filled in
5 partial quantities to include individual dosage units.
6 If there is any question whether a patient may be
7 classified as having a terminal illness, the
8 pharmacist shall contact the practitioner prior to
9 partially filling the prescription. Both the
10 pharmacist and the prescribing practitioner have a
11 corresponding responsibility to assure that the
12 controlled substance is for a terminally ill patient.
13 The pharmacist shall record on the prescription
14 document on file whether the patient is "terminally
15 ill" or a "long-term care facility patient". For the
16 purposes of this section, "TI" means terminally ill
17 and "LTCF" means long-term care facility. A
18 prescription that is partially filled and does not
19 contain the notation "TI" or "LTCF patient" shall be
20 deemed to have been filled in violation of this
21 section. For each partial filling, the dispensing
22 pharmacist shall record on the back of the



1 prescription (or on another appropriate record,
2 uniformly maintained, and readily retrievable) the
3 date of the partial filling, quantity dispensed,
4 remaining quantity authorized to be dispensed, and the
5 identification of the dispensing pharmacist. The
6 total quantity of schedule II controlled substances
7 dispensed in all partial fillings shall not exceed the
8 total quantity prescribed, nor shall a prescription be
9 partially filled more than three times after the
10 initial date of the prescription. Schedule II
11 controlled substance prescriptions for patients in a
12 long-term care facility or patients with a medical
13 diagnosis documenting a terminal illness shall be
14 valid for a period not to exceed thirty days from the
15 issue date unless sooner terminated by the
16 discontinuance of medication.

17 (j) A prescription for a schedule II controlled substance
18 may be transmitted by the practitioner or the practitioner's
19 agent to a pharmacy by facsimile equipment; provided that the
20 original written, signed prescription is presented to the
21 pharmacist for review prior to the actual dispensing of the
22 controlled substance, except as noted in subsections (k), (l),



1 and (m). The original prescription shall be maintained in
2 accordance with section 329-36. A prescription for a schedule
3 III, IV, or V controlled substance may be transmitted by the
4 practitioner or the practitioner's agent to a pharmacy by
5 facsimile; provided that:

6 (1) The information shall be communicated only between the
7 prescribing practitioner or the prescriber's
8 authorized agent and the pharmacy of the patient's
9 choice. The original prescription shall be maintained
10 by the practitioner in accordance with section 329-36;

11 (2) The information shall be communicated in a
12 retrievable, recognizable format acceptable to the
13 intended recipient and shall include the physician's
14 oral code designation and the name of the recipient
15 pharmacy;

16 (3) No electronic system, software, or other intervening
17 mechanism or party shall alter the practitioner's
18 prescription, order entry, selection, or intended
19 selection without the practitioner's approval on a per
20 prescription per order basis. Facsimile prescription
21 information shall not be altered by any system,



1 software, or other intervening mechanism or party
2 prior to receipt by the intended pharmacy;

3 (4) The prescription information processing system shall
4 provide for confidentiality safeguards required by
5 federal or state law; and

6 (5) Prescribing practitioners and pharmacists shall
7 exercise prudent and professional judgment regarding
8 the accuracy, validity, and authenticity of any
9 facsimile prescription information. The facsimile
10 shall serve as the original written prescription for
11 purposes of this section and shall be maintained in
12 accordance with section 329-36.

13 (k) A prescription prepared in accordance with subsection
14 (g) written for a narcotic listed in schedule II to be
15 compounded for the direct administration to a patient by
16 parenteral, intravenous, intramuscular, subcutaneous, or
17 intraspinal infusion, but does not extend to the dispensing of
18 oral dosage units of controlled substances, may be transmitted
19 by the practitioner or the practitioner's agent to the pharmacy
20 by facsimile. The original prescription shall be maintained by
21 the practitioner in accordance with section 329-36. The
22 pharmacist shall note on the face of the facsimile prescription



1 in red ink "Home Infusion/IV" and this facsimile shall serve as
2 the original written prescription for purposes of this section
3 and it shall be maintained in accordance with section 329-36.

4 (l) A prescription prepared in accordance with subsection
5 (g) written for a schedule II substance for a patient enrolled
6 in a hospice care program certified or paid for by medicare
7 under Title XVIII or a hospice program that is licensed by the
8 State may be transmitted by the practitioner or the
9 practitioner's agent to the dispensing pharmacy by facsimile.

10 The original prescription shall be maintained by the
11 practitioner in accordance with section 329-36. The
12 practitioner or practitioner's agent shall note on the
13 prescription that the patient is a hospice patient. The
14 pharmacist shall note on the face of the facsimile prescription
15 in red ink "HOSPICE" and this facsimile shall serve as the
16 original written prescription for purposes of this section and
17 it shall be maintained in accordance with section 329-36.

18 (m) A prescription prepared in accordance with subsection
19 (g) written for a schedule II controlled substance for a
20 resident of a state-licensed long-term care facility may be
21 transmitted by the practitioner or the practitioner's agent to
22 the dispensing pharmacy by facsimile. The original prescription



1 shall be maintained by the practitioner in accordance with
2 section 329-36. The pharmacist shall note on the face of the
3 facsimile prescription in red ink "LTCF" and this facsimile
4 shall serve as the original written prescription for purposes of
5 this section and it shall be maintained in accordance with
6 section 329-36.

7 (n) An electronic prescription for a schedule II, III, IV,
8 or V controlled substance may be electronically transmitted by
9 the practitioner to a pharmacy; provided that:

10 (1) The information shall be communicated only between the
11 prescribing practitioner and the pharmacy of the
12 patient's choice. The electronic prescription shall
13 be maintained by the practitioner in accordance with
14 section 329-36;

15 (2) The information shall be communicated in a
16 retrievable, recognizable format acceptable to the
17 intended recipient;

18 (3) No electronic system, software, or other intervening
19 mechanism or party shall alter the practitioner's
20 prescription, order entry, selection, or intended
21 selection without the practitioner's approval on a
22 per-prescription, per-order basis. Transmitted



1 prescription information shall not be altered by any
2 electronic system, software, or other intervening
3 mechanism or party prior to receipt by the intended
4 pharmacy;

5 (4) The prescription information processing system shall
6 provide for confidentiality safeguards required by any
7 applicable federal or state law; and

8 (5) Prescribing practitioners and pharmacists shall
9 exercise prudent and professional judgment regarding
10 the accuracy, validity, and authenticity of any
11 electronic prescription information."

12 SECTION 4. Section 329-42, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) It is unlawful for any person knowingly or
15 intentionally:

16 (1) To distribute as a registrant a controlled substance
17 classified in schedule I or II, except pursuant to an
18 order form as required by section 329-37;

19 (2) To use in the course of the manufacture, distribution,
20 administration, or prescribing of a controlled
21 substance a registration number that is fictitious,



1 revoked, suspended, expired, or issued to another
2 person;

3 (3) To obtain or attempt to obtain any controlled
4 substance or procure or attempt to procure the
5 administration of any controlled substance:

6 (A) By fraud, deceit, misrepresentation,
7 embezzlement, theft;

8 (B) By the forgery or alteration of a prescription or
9 of any written order;

10 (C) By furnishing fraudulent medical information or
11 the concealment of a material fact;

12 (D) By the use of a false name, patient
13 identification number, or the giving of false
14 address;

15 (E) By the unauthorized use of a ~~[physician's]~~
16 practitioner's oral call-in number; ~~[or]~~

17 (F) By the alteration of a prescription by the
18 addition of future refills;

19 (G) By the unauthorized use of a practitioner's
20 electronic prescription application; or

21 (H) By the unauthorized transmission of an electronic
22 prescription;



- 1 (4) To furnish false or fraudulent material information
2 in, or omit any material information from, any
3 application, report, or other document required to be
4 kept or filed under this chapter, or any record
5 required to be kept by this chapter;
- 6 (5) To make, distribute, or possess any punch, die, plate,
7 stone, or other thing designed to print, imprint, or
8 reproduce the trademark, trade name, or other
9 identifying mark, imprint, or device of another or any
10 likeness of any of the foregoing upon any drug or
11 container or labeling thereof so as to render the drug
12 a counterfeit substance;
- 13 (6) To misapply or divert to the person's own use or other
14 unauthorized or illegal use or to take, make away
15 with, or secrete, with intent to misapply or divert to
16 the person's own use or other unauthorized or illegal
17 use, any controlled substance that shall have come
18 into the person's possession or under the person's
19 care as a registrant or as an employee of a registrant
20 who is authorized to possess controlled substances or
21 has access to controlled substances by virtue of the
22 person's employment; or



1 (7) To make, distribute, possess, or sell any prescription
2 form, whether blank, faxed, computer generated,
3 photocopied, electronically transmitted, or reproduced
4 in any other manner without the authorization of the
5 licensed practitioner."

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 18 day of APR , 2013

Neil Abernethy

GOVERNOR OF THE STATE OF HAWAII

